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June 22, 2018

VIA ECF AND ELECTRONIC MAIL

Hon. Ann M. Donnelly, USDJ
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, NY 11201

Re: In Re Richard E. Lerner
Docket No. 1:16-mc-02636-BMC *SEALED*

Dear Judge Donnelly:

The undersigned represents respondent, Richard E. Lerner, Esq. in the above-referenced disciplinary proceeding. Please accept this letter as an application on behalf of Mr. Lerner to supplement his Opposition to the Order to Show Cause with Statement of Charges that was electronically filed by my firm on Mr. Lerner's behalf on September 6, 2017, by submission OF the Supplemental Report of Prof. Margaret C. Tarkington dated June 21, 2018 and the June 8, 2018 letter of Ms. Stephanie Mark of the National Archives.

Prof. Tarkington's Supplemental Report is issued on behalf of both Respondents, Lerner and Oberlander, and is based upon newly discovered evidentiary material in the form of the Affidavit of Joseph Giannini, and exhibits, sworn to May 29, 2018, previously filed with the court on June 7, 2018. In addition, it is supported by other newly discovered information in the form of the letter of Stephanie Mark, Supervisory Archivist Specialist at the National Archives, dated June 8, 2018, attesting to the fact that the "purportedly sealed" court file regarding the criminal case files of Felix Sater and those of other co-conspirators who were cooperating witnesses, were, in fact available to the public while at the National Archives from 2004 to 2010.

Mr. Giannini's affidavit of May 29, 2018, was forwarded to Prof. Tarkington for her review as additional factual material relevant to the opinions that she previously offered to the Committee in her initial report on behalf of Mr. Lerner and Mr. Oberlander. In addition, inquiries were made to the National Archives regarding the status of Mr. Sater's case file from his prosecution in the United States District Court, Eastern District of New York as to whether the court file had been treated as judicially sealed, or was publicly available, resulting is Ms. Mark's letter, which is appended to Prof. Tarkington's Supplemental Report, as Exhibit A.

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As appears from the enclosed courtesy copies of Prof. Tarkington's Supplemental Report and Ms. Mark's June 8, 2018 letter, the recently obtained and filed Affidavit of Joseph Guanine and Ms. Mark's letter serve as additional factual information amplifying Prof. Tarkington's opinions regarding the charges being pursued by this Committee as to Mr. Lerner and Mr. Oberlander, specifically with reference to any and all assertions that either of them violated a sealing order relating to Mr. Sater's case.

Inasmuch as the opinions set forth in Prof. Tarkington's Supplemental Report are supported by newly discovered material in the form of Mr. Giannini's affidavit and Ms. Mark's June 8, 2018 letter, it is respectfully requested that the Court grant this application and approve the filing of the Prof. Tarkington's Supplemental Report and the letter of Stephanie Mark as supplements to the Opposition to the Order to Show Cause with Statement of Charges in this matter.

Prior to making the within application, the undersigned communicated with James M. Wicks, Esq., Court appointed Investigator with regard to this matter and discussed the nature of this application and the materials which we herewith request leave to file. Mr. Wicks authorized the undersigned to advise the Court that he has no objection to this application, a copy of which has been supplied to Mr. Wicks, by hand, in an envelope marked "CONFIDENTIAL SEALED MATERIAL, FOR JAMES WICKS ONLY."

Thank you for your consideration in this request.

Respectfully submitted,

Rivkin Radler LLP

/s/ Peter C. Contino

By: Peter C. Contino (8611)

PCC/sn
Enclosure
cc: By Hand:
James M. Wicks, Esq.